

East Longmeadow Planning Board

60 Center Square

East Longmeadow, Massachusetts 01028

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since 1894

Michael Carabetta, chair

Alessandro Meccia, vice-chair

Tyde Richards, clerk

George Kingston

Ralph Page

robyn d. macdonald, director

Minutes of June 17, 2014

Present were: Chair, Michael Carabetta; Vice Chair, Alessandro Meccia; Clerk, Tyde Richards, George Kingston and Ralph Page.

Report on Pizza Shop

Mr. Carabetta said that he called Ms. Thorpe with regard to the Pizza Shop and never received a response. He said a couple of people he talked with said that the Selectmen resolved it at one of the Selectmen's meetings. Mr. Carabetta asked the Board if they wanted to keep following through he can call her one more time to try and find out the status. The Board agreed to have Mr. Carabetta contact Ms. Thorpe once again and try to get a copy of the seating plan.

Public Hearing Special Permit – Leah Hastings, Home Day Care, 114 Evergreen Drive

Chair, Michael Carabetta opened the public hearing for Leah Hastings for a Home Day Care. Clerk, Tyde Richards read the legal notice and correspondence into the record. Ben Cote, Fire Department wrote that his inspection of the home day care at 114 Evergreen Drive Brookhaven is in compliance with all state and town codes, including smoke & CO detectors. Sergeant Richard Bates, Police said that the site is located in a residential area with sufficient on and off street parking. Residence is clearly marked with address.

Mr. Carabetta asked the applicant to explain to the Board what she would like to do.

Leah Hastings, 114 Evergreen Drive said that she would like to open a home day care in her home. She said that she is licensed for six children, two of which are her own so there would only be four children coming from the outside into her home most of which are infants. Ms. Hastings introduced her Assistant, Katie Wajda.

Katie Wajda, 116 Grape Street, Chicopee said that she will be a full time assistant and will be there the hours that the day care is open.

Ms. Hastings said that her hours are 7:30 a.m. to 5:00 p.m. Monday - Friday, no weekends and no over nights.

Mr. Carabetta addressed the Board for any questions, there being none he addressed the audience for any questions.

Greg Morin, 49 Sutton Place said that he is concerned with traffic because as you enter Evergreen Drive it is a little challenging because there are cars parked on the street. He said that there is one way in and one way out and at the intersection often there are cars parked on the right side of the street in front of the house. Mr. Morin explained as someone goes through the cars are pushed over to the other side of the road and you can't see until you go around the corner. He said that it is a blind position and suggested that be taken into consideration. He is very concerned for the safety of the children in the neighborhood. Mr. Morin said unfortunately many of the neighbors that would be impacted with the traffic who already complain about speed of the traffic going through weren't even notified of the meeting because there are not within 300 feet. He said that she is only going to be licensed for six children but that is per person and they could hire someone and there could be twelve children. Mr. Carabetta said no that there is a cap of ten children. Mr. Morin said that there is currently a day care at the head of the neighborhood that is two lots over and another one down the road. He said that he doesn't know whether or not regionally there is a limit of how many day cares are allowed in a neighborhood. Mr. Carabetta said that it is a way of right for those people and the state doesn't discipline or doesn't discriminate how many there are or where they are in town. He said that the state says as a Planning Board they have make sure that the Police and Fire have done their job and safety is the key and utmost importance with the Board. Mr. Carabetta said as far as how many are in the town and how many kids they have is really not part of the Planning Board's purview just as long as they have met all the criteria the Board set forth. He said if there is ever an issue with regard to safety the safety officer Rick Bates goes out to see if there are any issues and if there are then he submits a report and requirements that need to be followed.

Peter Cokotis, 32 Sutton Place asked since the new by-law has the Board ever been presented with other neighborhoods that have restrictive covenants such as Nottingham. Mr. Carabetta said to the best of his knowledge no and that the covenants have nothing to do with the Planning Board. He said that they have to allow it by state rule and or mandate and what goes on in that subdivision has nothing to with Planning Board. Mr. Carabetta said if they decide as a group or collective group to take it up with the individual it is not up to the Planning Board.

Ms. Macdonald said that she asked Attorney Donahue for his legal opinion as to whether or not the town has the authority to grant a Special Permit for 114 Evergreen Drive because there are restrictive covenants on the subdivision which restrict any type of business on the residential site. She said that she didn't believe that the town is bound by those covenants.

Mr. Carabetta read Attorney Donahue's opinion into the record that stated "the restrictions in no way limit the permit granting authority of the municipality but the permit has no effect on the restrictions. They are mutually independent of each other". He said that Attorney Donahue was saying that they have their set of guidelines and/or rules and the Board has their own set of guidelines and/or rules. Mr. Carabetta said that they do not intercede with each other in any way shape or form. Ms. Macdonald said that the restrictive covenant can be enforced by the homeowners association. Mr. Carabetta said yes but not by the Planning Board and addressed the Board for any further questions. Ms. Hastings commented that she is allowed four children and one of the families that wants to send her children to her has two children of her own. She said that the maximum number of cars would be three cars at the most.

Mr. Morin said one comment is that he understands that kids are shuttled in together and if you look forward they can't consider that would be the way in the future.

Ms. Hastings said the most children will be four.

Mr. Kingston said that he has certainly been through Evergreen Drive on numerous occasions and that it is a very quiet area with not a lot of traffic. He doesn't think the additional four cars twice a day is going to make a difference. Mr. Kingston said that they have to rely on the Public Safety Officer's findings.

Mr. Page said being that it is a Special Permit and if the traffic is bound to be excessive the Board can always bring it back to look at it again.

There being no further questions and upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to close the public hearing.

Mr. Richards read the required findings of the Special Permit into the record.

Mr. Page said in the findings under number 2 it should read that two abutters were in opposition.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to approve the Special Permit for a home day care at 114 Evergreen Drive.

Request for Waiver of Site Plan – Ground Force Excavation – 263 North Main Street

Clerk, Tyde Richards read a Request for Waiver of Site Plan Review from Michael Moynahan's request for a Waiver of Site Plan approval to operate a home office to operate his excavation business. The storage of his vehicles are at a location in Monson and no clients go to the location and there is no machinery or product on the site. The hours of operation are not determined as it is strictly a billing office.

Mr. Carabetta addressed the Board for any questions.

Mr. Kingston said in looking at the ariel photography there is no place to store a commercial vehicle on the site. He said that it is a very small lot in residence C and he wants to make sure the applicant knows he can't keep vehicles there.

Michael Moynahan, 263 North Main Street asked if he could keep it in the back on the other driveway which is on Shaw Street.

Mr. Page said that he is allowed one commercial vehicle, one ton or less in capacity and it must be screened from view.

Mr. Moynahan said which has and he can park on the upper driveway. Mr. Carabetta said yes as long it is screened from view.

Mr. Page said that he wanted to reiterate that the vehicle needs to be screened or garaged.

Upon motion duly made by George Kingston and seconded by Ralph Page, the Board voted unanimously (5-0) to approve the Request of Waiver of Site Plan Review for Michael Moynahan, Ground Force Excavation, 263 North Main Street conditioned upon there will be no retail operation at the location, no employees other than the owner and no signage. The office is not to occupy any more than 20% of the total floor area of the dwelling, including the basement area. If there are any changes in the operation, the applicant must appear before the Planning Board again to discuss those changes.

Request for Waiver of Site Plan Review – Visual Changes, 100 Shaker Road

Clerk, Tyde Richards read a request for Waiver of Site Plan Review from Mark Maruca, Visual Changes to operate a full service beauty salon at property located at 100 Shaker Road. The hours of operation are Monday through Saturday 9:00 a.m. to 9:00 p.m. and there will be 5 employees including the owner.

Present were the contractors Brian and Michael Switzer.

Brian Switzer, Contractor said that they are hoping the waiver gets approved because they would like to get a building permit and start construction as soon as possible. Mr. Switzer said that they originally built the building and there was a site plan review that was approved for the building. He said that there are 40 total parking spaces 20 of which are occupied by the dentist and leaves 20 spaces for the future tenants. Mr. Switzer said the way they calculated it they would need 13 spaces.

Mr. Carabetta addressed the Board for any questions.

Mr. Page said that currently Visual Changes is under a Special Permit as a Massage Therapy Salon. He believes they are requesting a Waiver of Site Plan for a personal care facility knowing that if the massage therapist is going to go to Shaker Road that they still have to come before the Board for a Special Permit for a Massage Therapy Salon. Mr. Page said in the meantime if they approve the Waiver of Site Plan as a Personal Care Facility they can start the renovations and all that they need.

Mr. Carabetta asked the contractors if they understood that. Brian and Michael Switzer said yes that they understood that.

Ms. Macdonald said that she has spoken to them about it and they are fully aware of it and the reason they are going that way is because until they get a Special Permit they wouldn't be able to get a building permit. She said by just doing a hair salon as a personal care business which is an allowed use and for which a Special Permit is not needed they are still going to apply for the amendment to the Special Permit at a later date for the massage therapist.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted (5-0) to approve the Request for Waiver of Site Plan Review for Visual Changes, 100 Shaker Road. If any signage is desired the applicant must submit two copies of color renderings to scale of the proposed signage for approval by the Board and obtain a sign permit from the Building Inspector.

Request for Waiver of Site Plan Review - Pea Pods at Stop & Shop, 470 North Main Street

Clerk, Tyde Richards read a request for Waiver of Site Plan Review and correspondence from Stop & Shop Pickup Point Peapod submitted by Keith Mozer, Stop & Shop Project Manager. The proposed operation is a pickup point for groceries that have been ordered online.

Sargent Richard Bates wrote:

I met with the store management and came to an agreement for the Proposed Pea Pods. It is recommended only three be installed at the location instead of four. It is also recommended the bench against the wall furthest west remain in the same location and the other bench be moved directly across from in on the inside of the support post.

Keith Mozer, Construction Project Manager for Stop & Shop said that Pea Pod is a home delivery service that takes people's orders online or by phone. He said the products are kept in a pea pod away from the general public in an area to make sure everybody gets their orders and nothing is stored overnight. Mr. Mozer said most of locations do about 10 cars a day and that would take about 10 hours as opposed to 5 minutes on the average with a grand total of 50 minutes and said that there are about 195 all over the east coast.

Mr. Carabetta asked Mr. Mozer if he is aware of the number of pea pods and location of the benches Sargent Bates recommended. Mr. Mozer said that he didn't see that ahead of time. Ms. Macdonald said that Sargent Bates had just sent that in that day. Mr. Carabetta showed Mr. Mozer the diagram of the locations and addressed the Board for any questions.

Mr. Kingston asked Mr. Mozer how the pea pods are stocked. Mr. Mozer said that particular one will be taken from what is called the Agawam Ware Room. Mr. Kingston asked how do they get loaded. Mr. Mozer said from the loading dock in the back and going through the store. Mr. Kingston asked if somebody goes there to pick up their groceries do they stand there while their groceries are loaded into their car and they don't park in the fire lane. Mr. Mozer said standard operating procedure doesn't allow it and said that there are cameras on the units and the parking lot and no one is allowed to park in the fire lane. He said that it is an attended service and the workers are employees of the store.

Mr. Page said because of the shopping center and the shared parking there can't be any designated specific spots for it. Mr. Mozer said that Ms. Macdonald explained that to him. Mr. Page said that he was glad to hear that deliveries will be in the back and through the store.

Mr. Meccia said his main concern was the delivery and is also pleased with process. Mr. Richards said that traffic was his concern and Mr. Mozer answered his questions.

Mr. Mozer said that they can actually police the fire lane a lot better and by the attendant not allowing people to be there and said that it almost a monitored thing now as opposed to the store manager walking out every now then noticing someone sitting in the fire lane. He said that is something they are condescend about.

Mr. Page asked if the attendant is inside the store or are they outside. Mr. Mozer said they are outside the store and they know most of time when someone is coming.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to approve the Request for Waiver of Site Plan for Stop & Shop Pea Pod Vending bins at 470 North Main Street located at the area in the walk-way by the grocery carts at Stop & Shop and two benches will be located one at the wall furthest west and one directly across and on the inside of the support post as per the Police Department. The vending bins will be manned at all times and the unloading of the trucks shall only be at the rear of the building and product will be brought through the store for storage in the bins.

Informal discussion with Joe Connelly regarding the possible development of 330 Chestnut Street

Present were Joe Connelly, Modak Properties owners of the property and Nick Morizio, Realtor.

Mr. Connelly said that they have tried over the years to get a tenant into the building. He said that most recently they had Blu Homes Technology. Mr. Connelly said questions that were brought to their attention were that they had ceiling heights that were either too high or too low, the age of the building and the configuration of the building. Mr. Connelly said that they have looked at cutting the building down reducing the size, trying to do the incubator program on it and they have talked with Mass Economic Redevelopment Corporation to see what they could do to help them. He said that they are now at the point where they would like to know what the town would like to see for the property.

Mr. Morizio said because of the structure of the building being concrete it difficult to work with the building. Mr. Carabetta said that he spoke with the a demolishing company and they said that it would be tough job. Also there are some environmental issues there. Mr. Connelly said that they are working through that right now. Mr. Morizio said the good part is that it has all the utilities and there is water & sewer capacity with a 40 acre piece of land. He said that they think there is a higher and better use for the land and they are asking the Board for their opinion on other uses other than industrial that they could market. Mr. Morizio said would retail or apartments or condo's be more ideal for the site. Mr. Carabetta commented that Lego's built a huge building in Enfield Ct and half of that is vacant.

Mr. Kingston said one thing they didn't mention is there major cable adjacent to their property and it goes down to the rail trail. He said that it would be a great server for them and have a wonderful connection to the internet and Google and Amazon are always looking for places.

Mr. Connelly said another thing that they even looked was trying to create a solar farm.

Mr. Carabetta asked if they have looked at anything such as UPS or distribution centers. Mr. Connelly said that there was recently interest from a corrugated box manufacture but they are faced with the problem 350,000 square feet of the building and there are 22 foot for ceiling heights so it doesn't work. He said the high bay building is 55 feet and for insurance purposes you can't get the sprinklers in down low enough without putting in a full ceiling and a full ceiling doesn't work. Mr. Connelly said they are not saying they want to tear down the building but if they could find a user that's the puzzle they are going through. He said they thought one of the considerations would be

residential and they don't know how that would work with the town. Mr. Connelly said they thought if they had the ability to reach a broader market and then come back with something besides industrial or commercial then they maybe would try and develop the property. He said then if they are successful with the developer they could come back before the Board and ask if they would entertain a zone change.

Mr. Richards said that he looked at the site many years ago with Mr. Connelly and he looked at it to do a Lowe's Redevelopment when Lowe's was looking at the site behind Stop & Shop before they enacted the Big Box restriction. Mr. Richards said that it is now off the of the table because of the zoning restriction but as far as retail goes there was retail interest at one time but because of the current zoning it is not allowable.

Mr. Kingston said from a residential stand point it is adjacent to Residential A and adjacent to Planned Adult Residential and said if it were to be rezoned it would have to go town meeting. Mr. Carabetta said that he thinks residential would be a better fit then an industrial complex. Ms. Macdonald said the 55 & older residential development that is down the road that the Board worked really hard to do a sliding scale for small units if somebody did something for 55 & over in a smaller scale where people can afford them would be a good idea.

Mr. Connelly said they are open to any suggestions the Board has. Mr. Carabetta asked if they would entertain going for a zone change in front of the town. Mr. Connelly said that they came before the Board informally to talk with them and to see if they were dead set against anything but maybe agreeable to something else. Mr. Carabetta said that he would like to see the land developed just as many others would but what the best purpose is for the site is hard to say.

After further discussion Mr. Connelly said that they will try to market something different or repurpose the site and come back to the Board with a viable plan to make sure it works and make a presentation to the Board and they will see where they will go from there. The Board thanked Mr. Connelly and Mr. Morizio for coming in and talking with them.

Request for Waiver of Site Plan Review – Longmeadow Landscaping, 64 Maple Street

Clerk, Tyde Richards read a request for Waiver of Site Plan Review from Joseph Alexopoulos, Longmeadow Landscaping to park landscaping vehicles and have a small mulch pile and log stack at property located at 64 Maple Street. The hours of operation are Monday through Sunday 7:00 a.m. to 7:00 p.m. with possible snow removal in the winter and there will be 2 to 4 employees at the location.

Mr. Richards recused himself due to conflict of interest.

Mr. Carabetta said the Request for Waiver of Site Plan Review was submitted again with the correct address.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia to approve the Request for Waiver of Site Plan Review for Longmeadow Landscaping, 64 Maple Street. After further discussion Mr. Page said that he went by the site and although it does state 64 Maple Street there is no way to access the rear of the property for 64 Maple Street. He said that it is completely fenced in and there is no gate there and the only access is through Maple Court and there is also a log stack

directly across. Mr. Page said anyone coming in from Maple Street can't get to the rear of the property because of the way they have stacked the logs. He said if they remember the last time he thought that they shouldn't waive a complete site plan on it, that he thought it was important that the fencing around is completely gated in, locked gate if there is a fire in there and the mulch piles have now tripled in size. Mr. Page said that Ben Cote from the Fire Department states that he doesn't even want mulch put around the building for fear of a fire and yet there is a stack that is over 300 cubic yards. He said that he thinks a site plan is needed on it and he does understand the fact the only reason he is back in front of the Board is because of an address. Mr. Page said that he is voting on it the same way he did the last time.

Mr. Carabetta said that he does understand you can't get to the back from Maple Street but you can get to the back from Maple Court. He said it is not an unusual circumstance based on the way the streets run in that neighborhood and as far as the mulch pile goes it does sound like it is a fire hazard and it does sound like something the Fire Department needs to be aware of and or to something about it. Mr. Carabetta said with that being said he doesn't feel it falls under the Planning Board's purview and the Board is asked to approve a Waiver of Site Plan. Mr. Page said he feels if they have a base line such as a Site Plan they have more to fall back on and he disagrees on it.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia the Board voted (3 -1) to approve for Joseph Alexopoulos, Longmeadow Landscaping, 64 Maple Street. If any signage is desired the applicant must submit two copies of color renderings to scale of the proposed signage for approval by the Board and obtain a sign permit from the Building Inspector.

Request for Waiver of Site Plan Review – Sprint, 30 Benton Drive

Clerk, Tyde Richards read a request for Waiver of Site Plan Review from American Tower to install three (3) panel antennas on the existing pole for Sprint at 30 Benton Drive as well as installing equipment into the existing cabinets at the base of said tower.

Upon motion duly made by Ralph Page and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to approve the Request for Waiver of Site Plan for Sprint, 30 Benton Drive. Because no actual structure is being constructed, and because the installation of the antennas does not increase the height of the existing monopole, a Special Permit is not required for this application. If there are any changes to this site anticipated by Sprint, they must first come back before the Planning Board for approval.

Request for Signage – Cabelo Hair and Nail Salon, The Spa of Eden, Schaler Photography, 51 Prospect Street

Clerk, Tyde Richards read a Request for Signage from Cabelo Hair and Nail Salon, Schaler Photography and The Spa of Eden, 51 Prospect Street.

Mr. Carabetta said that they came before the Board and there were some setback issues and the Board sent them to the Zoning Board of Appeals. He said that ZBA was comfortable with the setbacks and granted a variance.

Mr. Page said that a variance was granted and feels that was a good decision by the ZBA because the sign is in a good location for the parking area. He said if they change any lettering on the sign they have to come back before the Board and asked would they have to go back to the ZBA. Ms. Macdonald said once they have the variance they have the variance. Mr. Page said then it would simply be a sign permit. Ms. Macdonald said correct.

Upon motion duly made by Alessandro Meccia and seconded by George Kingston, the Board voted unanimously (5-0) to approve the proposed signage for 51 Prospect Street. Three signs approved will be added to the existing ground sign measuring 65" x 18" for a total of 8.2 square feet ^{+/-}. Although the placement of the ground sign does not meet the zoning regulations as required for front set back, a variance was granted on June 9, 2014 by the Zoning Board of Appeals to allow the sign to remain at its present location and is conditioned upon obtaining a sign permit from the Building Inspector.

The Fields and Industrial Drive re: Wooded Berm

Mr. Carabetta said that he is meeting with Mr. Burd the next day and will bring the plans to him because he wanted to know what was approved with regards to the berm.

Graziano Gardens re: Access

Mr. Carabetta said there is an issue with Graziano Gardens as far as access to their property. He said based on Town Counsel's advice the Planning Board brought it to the Board of Appeals. He said that the Board of Appeals decided that there was access to the property however what was presented at that meeting was that they are in direct violation of their agreement by storing product and or vehicles on the residential property. Mr. Carabetta with that being said he is leaving it up to Board to decide what they would like to do.

Mr. Kingston said that he thinks they need to call them on it.

Mr. Richards said that he agrees with Mr. Kingston that an agreement has been signed and it needs to be honored.

Mr. Meccia said that he also agrees.

Mr. Page said the problem he has with it is that the Board sent a letter to the Building Inspector asking for him to give them an opinion. He said that he gave an opinion and the Board did not appeal his decision within 30 days so the Board does not have that avenue to go through him again for a 2 year process from what Mr. Donahue was saying. Ms. Macdonald said not on the agreement the frontage issue they do. Mr. Page said no actually on the agreement because that was their first letter to Mr. Hellyer was they felt he was in violation of the agreement Section 2. He said that Mr. Hellyer responded and said that he found no violations and the Board waited after 30 days and politely asked him to take a look at it and he ignored them. Mr. Page said when they brought it to Attorney Donahue in they talked about frontage specifically and they appealed the frontage and the Board found that they were not in violation of their frontage. He said the Board has already gone through that process and from what he understands it is 2 years before they can bring it up again. Mr. Page said that Attorney Donahue also spoke and it's in the minutes that there maybe another avenue but he hasn't gotten back to the Board as far as what that other avenue is. Mr. Kingston said that he respectfully

disagrees because the timings the 14 days and the 30 days refer to complaints about zoning violations and it is not a zoning violation they are talking about. He said they are talking about the failure to abide by an agreement that they had and the agreement has nothing to do specifically with the zoning by-law. Mr. Page said that he disagrees because if you read the agreement it specifically states that business activity is not to take place on the residential lot because the zoning does not allow it. Mr. Kingston said that they are not going after them for a zoning violation they are going after them for a violation of the agreement which there is no statutory limit on and it is not zoning and it is not something that is covered by 40 A.

Mr. Carabetta said in all fairness to all parties he would like to consult town counsel again and asked the members if they were all okay with that, all the members agreed.

Partial Release of Bond – Bella Vista Estates

Ms. Macdonald said that DPW has gone out and looked Bella Vista and they have approved for the Board to release the bond in the amount of \$20,701.01 with the town holding \$120,918.28 for the rest of Phase 1.

Upon motion duly made by George Kingston and seconded by Alessandro Meccia, the Board voted unanimously (5-0) to release the partial bond for Bella Vista Estates.

Minutes

The Board reviewed the minutes of February 25, 2014 and upon motion duly made by George Kingston and seconded by Ralph Page, the Board voted (5-0) to approve.

The Board reviewed the minutes of March 11, 2014 and upon motion duly made by Ralph Page and seconded by George Kingston, the Board voted (5-0) to approve.

The Board reviewed the minutes of March 25, 2014 and upon motion duly made by Alessandro Meccia and seconded by Ralph Page, the Board voted (5-0) to approve.

There being no further business and upon motion duly made by George Kingston and seconded by Ralph Page, the Board voted to close the meeting at 7:45 p.m.

For the Board,

Tyde Richards, Clerk